IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO,

WESTERN DIVISION

Tronsen

v.

Toledo-Lucas County Public Library
(herein after also as 'TLCPL')

3:08 CV 148

Plaintiff requests leave to appraise the court of previously unmentioned cases.

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TOLEDO

In plaintiff's continuing research, he has discovered these cases he proposes have Direct application to the matter he complains of, to wit: (in chronological order)

I. Stanley v. Georgia 394 U.S. 557 (1969)

In this case, police executed a search warrant issued regarding suspicion of bookmaking activities. Police found what they deemed 'obscene' films, thought to be contrary to a state statute. Ruling againt the law, the court said (in part):

The Constitution protects the right to receive information and ideas, regardless of their social worth, and to be generally free from governmental intrusions into one's privacy and control of one's thoughts.

II. Brinkmeier v. Freeport from the Northern District of Illinois, # 93 C 20039 (1993)

In the Brinkmeier matter we find a more flagrant, 'possibly' more blatant objectionable note produced by a library patron and passed to a library staff member. It is said/suggested that the note solicited – requested a sexual liason between the two. Note: Brinkmeier claimed that his note was delivered to the library employee on a public sidewalk outside the library building. It was said that the note was delivered 'as the employee was leaving the library'.

> Brinkmeier was served with a "NO Trespass" warning by the Chief of Police, and he was escorted off the premises.
>
> The library claimed an (unwritten) policy of being able to exclude patrons who harassed library staff, similar if not identical to our case.

Plaintiff Tronsen says that in fact, since the TLCPL 'Code of Conduct' does not mention the passing of notes as he is accused, this parallels the Brinkmeier case in that respect.

The defendant City of Freeport moved for summary judgement, which was DENIED.

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III. Armstrong v. District of Columbia Public Library # 940932 D of C, 2001:

Leonard Armstrong brought an administrative and later a 42.1983 action against the District of Columbia Public Library

(and apparently the administrator and the library Board of Directors).

The library sought to evict Mr. Armstrong because library staff found his presence 'objectionable'. Rather than paraphrasing the issue, Plaintiff here quotes directly from the case description as *published*:

> Plaintiff alleges that on Sunday, February 14, 1993, he attempted to enter the Martin Luther King Memorial Library. Plaintiff was residing in an area shelter at the time, and he came to the Library wearing a shirt, shoes, pants, several sweaters, and two winter jackets to stave off the cold weather. Plaintiff testified that he arrived at the Library with a telephone directory and newspaper, intending to read and take notes at a Library table, but that he was stopped at the Library entrance and denied access to the facility by security personnel. After being told only that he needed to "clean up," plaintiff was instructed to leave the building, which he did. At no time was plaintiff informed of the existence of the regulation in question or what specifically about his appearance was deemed to be prohibited.

Plaintiff Tronsen in this case says that he understands that the District of Columbia may have enjoyed some type of immunity not claimed by the TLCPL, nevertheless, the case went forward, and the following matters were considered:

1. Whether a First Amendment Right Exists

"The first issue to be addressed in any challenge to the constitutional validity of a rule under the First Amendment is whether a First Amendment right exists." Kreimer v. Bureau of Police for the Town of Morristown, 958 F.2d 1242, 1250 (3d Cir.1992) (citing Cornelius v. NAACP Legal Defense & Educational Fund, Inc., 473 U.S. 788, 797, 105 S.Ct. 3439, 87 L.Ed.2d 567 (1985)). It is well-established and can hardly be disputed that "the Constitution protects the right to receive information and ideas." Stanley v. Georgia, 394 U.S. 557, 564, 89 S.Ct. 1243, 22 L.Ed.2d 542 (1969); Griswold v. Connecticut, 381 U.S. 479, 482-483, 85 S.Ct. 1678, 14 L.Ed.2d 510 (1965); see also Kreimer, 958 F.2d at 1256 (citing Martin v. City of Struthers, 319 U.S. 141, 63 S.Ct. 862, 87 L.Ed. 1313 (1943)("This right, first recognized in Martin and refined in later [F]irst [A]mendment jurisprudence, includes the right to some level of access to a public library, the quintessential locus of the receipt of information.")).

Accordingly, in view of long-standing precedent supporting plaintiff's First Amendment right to receive information and ideas, and this right's nexus with access to public libraries, the Court must next determine the constitutional standard of review for defendants' appearance regulation and then resolve plaintiff's claims that the regulation violates the First Amendment due to its vagueness and overbreath.

2. Constitutional Standard of Review

In determining the appropriate standard under which to review plaintiff's challenge to the Library regulation, the Court must first identify the nature of the forum to which plaintiff sought access. See Perry Educ. Ass'n v. Perry Local Educators Ass'n, 460 U.S. 37, 45-46, 103 S.Ct. 948, 74 L.Ed.2d 794 (1983)(adopting "forum" analysis in order to determine whether a particular rule or regulation violates the First Amendment). **The parties correctly assert that a public library is a limited public forum for purposes of constitutional analysis.** See Kreimer v. Bureau of Police for the Town of Morristown, 958 F.2d 1242, 1250 (3d

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF OHIO

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